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COMMISSION ON HUMAN RIGHTS
Fifty-second session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV)

[21 March 1996]

1. Suppression of dissent shows a lack of civil and political rights available to all Chinese citizens.

2. The International Federation of Human Rights (FIDH) notes with concern that during 1995 the Chinese Government undertook the most severe crackdown against human rights and labour, religious and democracy activists since the suppression of the 1989 Democracy Movement. In 1995, human rights groups documented more than 100 detentions of human rights and democracy advocates, the vast majority of whom are working through peaceful, legal, public means.

3. The trend was most clearly exemplified by the December trial of Wei Jingsheng on charges of "conspiracy to subvert the Government", at which prosecutors accused Wei of conducting "illegal activities under the cloak of legality". Although none of Wei's actions - including planning an art

exhibition, buying shares in a credit union and arranging material support for victims of political persecution - are illegal under Chinese law, the court found that Wei acted with the intention of "subverting the Government" and sentenced him to 14 years in prison. This intent, the court argued, was demonstrated in writings Wei published outside China and his discussions with friends and colleagues. FIDH has examined the documents from Wei's trial, which clearly show that the court ignored factual and legal distortions in the prosecution case and convicted Wei merely for exercising his rights to freedom of expression and association.

4. While China's community of active dissidents such as Wei is small, their treatment is only the most obvious manifestation of restrictions on civil and political rights which affect all Chinese citizens. The rights and freedoms dissidents seek are vital to the realization of the economic and social rights which the Chinese Government claims are its priority, most recently in the December 1995 White Paper "The Progress of Human Rights in China". The deterioration in the treatment of dissent during 1995 thus raises serious concerns about rights protections for all Chinese citizens.

5. FIDH recognizes that economic development has undoubtedly raised living standards for many Chinese people and has been accompanied by a decrease in controls over most personal and economic activities. However, growth in income levels in the absence of political development and human rights protections cannot be considered true development, as the United Nations has repeatedly recognized. Without the checks on official power created by a healthy civil society, independent media, democratic accountability and an impartial, independent judiciary, no one is safe from violation of their rights, including both civil and political rights and economic and social rights. The most egregious aspects of the suppression of dissidents' basic human rights include widespread arbitrary and illegal detention; torture, ill-treatment, threats and abuse; denial of the right to take legal action against abuses; restrictions on freedom of movement, correspondence and association; and official interference in economic and personal affairs. These, and other rights violations, also affect many unknown individuals not engaged in dissident activities all across China.

6. Although the Chinese Government has repeatedly expressed its commitment to "legal reform" and has passed a variety of legislation protecting the rights of various groups, such as women, minors and people with disabilities, the rule of law in China is compromised by a combination of political control over the judiciary, lack of monitoring of law enforcement bodies and failure to implement laws. Communist party committees at all levels can dictate court decisions on particular cases as well as general policy on legal matters. At a recent conference on "politics and law work", Chinese President Jiang Zemin stated: "Unswerving efforts should be made to uphold the Party's absolute leadership over the political and law work ... Party leadership is the political and institutional guarantee of rigorous law enforcement".

7. Thus, dissidents have often been unable to have cases, including on commercial and copyright matters, heard by the courts. When they have managed to obtain a hearing, such as on challenges to administrative detention under Re-education Through Labour, their suits have been summarily dismissed with no real effort to examine the merits of their cases. This kind of political

interference in the judicial process also affects ordinary citizens, who may be unable to get justice when a case involves powerful officials or organizations. In one recently reported case, an Anhui businessman bought the services of eight judges with gifts, who then ignored the evidence and ruled in his favour in business disputes.

8. Political control and corruption in the absence of independent media and organizations means that officials in all spheres, including law enforcement and the judiciary, may act with impunity. Many laws and regulations - particularly those on labour standards and the protection of persons in detention - are routinely flouted. The failure to implement laws is shown most clearly by endemic violations of proper procedures governing detention, arrest, trial and treatment of incarcerated persons.

9. A number of dissidents have "disappeared" for long periods, held under "residential surveillance", which is theoretically a form of house arrest. They have been held completely incommunicado, with no information given to their families as to their whereabouts, why they are being held or under what charges. Wei Jingsheng was held in this way for 20 months prior to his arrest on 21 November 1995, and Wang Dan and Liu Nianchun have now been so detained for close to 9 months. Dissidents have also been detained for years without a trial to resolve their cases. For example, Xiao Biguang and Yuan Hongbing have now been held for over two years.

10. Conditions in detention centres and prisons are frequently appalling and can exact a heavy toll on the health of detainees. They include severely inadequate food, insufficient water, inter-inmate violence and unsanitary living conditions. Dissidents' petitions for medical parole have been ignored and authorities have often refused to inform them or their families of the results of medical examinations. Although dissident intellectual Cheng Ziming is still suffering from cancer, he was returned to prison in June 1995 after over a year on medical parole. An Ning, 28, lost five teeth during three years in a Henan Province detention centre. Many other detainees are seriously ill. Prisoner of conscience Hu Jian died last October in a Shanxi Province prison mental hospital after two years of hunger-striking against abusive conditions. His family was not given an autopsy report or permitted to view his body before cremation.

11. Many dissidents are serving years in labour camps under Re-education Through Labour an administrative punishment imposed by the police without trial which the United Nations Working Group on Arbitrary Detention has judged to be "inherently arbitrary". Minors between the ages of 16 and 18 can also be arbitrarily detained together with adults under this and other administrative measures. A number of dissidents, including Tong Yi, Zhang Lin and Zhou Guoqiang, are suffering abusive conditions in Re-education camps after being sentenced for vague offences such as "hooliganism" and "disturbing social order". A number of dissidents have been beaten in detention centres, prisons and labour camps, often by other inmates at the instigation of prison guards. Despite clear evidence of such abuse, the authorities' response has generally been to deny that the beating occurred. Furthermore, the authorities have often failed to protect inmates who have been beaten by their fellows from further attacks. For example, Tong Yi was beaten by cellmates after she refused to work the 14-hour shifts demanded of inmates in her

Hubei Re-education facility. She complained to the guards and asked for protection, but the following day she was beaten even more severely by some 10 other inmates. According to official figures, some 1 million Chinese people annually are subjected to arbitrary detention under Re-education Through Labour and "Shelter and Investigation", a procedure which is supposed to be used only for individuals whose identities are not known but which is frequently used to detain people, including dissidents, without charge for long periods.

12. Another source of widespread violations of human rights, FIDH believes, is China's coercive population control policies. Direct and indirect results of this policy include forced sterilizations and abortions; killings of infants born alive after late-term abortions, skewed sex ratios at birth (over 500,000 female infants go "missing" every year); abandonment of over a million infants per year, primarily girls and children with disabilities; and the denial of education, health and other subsidies to children in families with "out of plan" births.

13. China's recent White Paper denounces criticism of China's human rights record as "some countries" "using a double standard" and "interfering in the internal affairs of other countries". This dismisses the universal and indivisible nature of human rights standards, the observance of which has been acknowledged to be the legitimate concern of the international community. It also ignores the fact that much of the criticism of human rights practices in China comes from domestic human rights activists and independent human rights organizations, such as FIDH, which are not affiliated with any Government and judge all Governments according to international human rights standards.

14. FIDH urges the Chinese Government to eliminate political control over the judiciary and the media and allow the formation of independent human rights groups which can assist in monitoring and supervising officials. FIDH also calls on Commission member States to enact a strong resolution at the current session encouraging China to improve human rights protections.

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COMMISSION ON HUMAN RIGHTS
Fifty-second session
Item 9 (d) of the provisional agenda

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Written statement submitted by the International Human Rights Law Group, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[7 March 1996]

1. Since the appointment of the Representative of the Secretary-General on internally displaced persons in 1992, the number of persons displaced within their own countries has grown steadily, giving new urgency to the need for increased assistance to, and protection of, the internally displaced. Despite limited resources, the Representative has been effective in drawing global attention to and raising awareness of the critical, often life-threatening challenges facing internally displaced persons, through, inter alia, country visits, and his annual reports to the General Assembly and Commission on Human Rights.

2. The Representative's mandate has included the important task of developing a compilation and analysis of existing international legal standards in order to evaluate their adequacy in providing protection and assistance to internally displaced persons, the majority of whom are children and women. The International Human Rights Law Group, at the request of the Representative, assisted in the preparation of the Compilation and Analysis of Legal Norms (E/CN.4/1996/52/Add.2) that is now before the Commission.

3. The Compilation and Analysis was prepared in consultation with a broad range of specialists in the field of human rights and humanitarian affairs, including representatives of the Department of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees, the United Nations Centre for Human Rights, the International Committee of the Red Cross, and the International Organization for Migration. Representatives of governments, regional human rights bodies and NGOs also participated in these consultative meetings.

4. The purpose of the Compilation and Analysis was to determine whether existing international norms specifically human rights and humanitarian law, and refugee law, where appropriate, adequately address the needs of internally displaced persons. The Compilation and Analysis identifies more than 20 areas in which the law provides either insufficient protection for internally displaced persons or where there are clear gaps in the law. It concludes that a clear set of standards tailored to the protection and assistance needs of internally displaced persons would enhance the legal protection for the estimated 30 million internally displaced persons around the world.

5. In the light of the insufficiencies and gaps in existing law, the International Human Rights Law Group recommends that a body of principles or a declaration be drafted to apply existing general principles to the specific situation of internally displaced persons and to address the gaps in the law. Such an internationally agreed upon instrument would provide minimum guarantees for internally displaced persons that should be respected by States and non-governmental actors alike. Thus, it would provide a legal framework that would guide governments, intergovernmental and non-governmental humanitarian organizations and other relevant actors in their actions on behalf of the internally displaced. As the Secretary-General's Representative on internally displaced persons has observed, such a body of principles or a declaration would also strengthen his ability to carry out his mandate, in particular in his dialogues with governments and other actors in countries affected by internal displacement.

6. The International Human Rights Law Group therefore requests the Commission on Human Rights to endorse the development of a legal framework that includes the drafting of a body of principles or a declaration that specifically protects and assists internally displaced persons.